



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,858	02/27/2004	Julio Casanova	SP-1785.1US	8485

20875 7590 12/20/2006

MICHAEL C. POPHAL
EVEREADY BATTERY COMPANY INC
25225 DETROIT ROAD
P O BOX 450777
WESTLAKE, OH 44145

EXAMINER

LUONG, SHIAN TINH NHAN

ART UNIT	PAPER NUMBER
----------	--------------

3728

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/20/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/789,858

Applicant(s)

CASANOVA, JULIO

Examiner

Shian T. Luong

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 15-18 and 35-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 19-34 and 39-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 1/2/07 1/26/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application.
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 112

1. Claims 1-14, 19-20,22-34,39-40 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1 and 22 require that none of the modules is able to be removed from the cover when the cover is over all of the at least two modules. The cardboard box 14 shown in Figure 2 has openings on both sides which allows removal of at least one of the modules. Similarly, the shrink wrap cover may provide wrapping only on the top, front, rear and bottom surfaces and render the side surfaces open for removal of the module. Hence, the new language introduced by applicant is considered new matter is and is not permitted in the specification or claims.
2. Claims 1-14, 19-20,22-34,39-40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear how the cover prevents the module from removal while the cover is over the modules as recited in claims 1 and 22.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1,3-4,6-11,13-14,20,23-24,26-31,33-34,40 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Casanova (WO 01/98170) in view of Douglas (US 3,743,084) and/or Kallgren. Casanova discloses a display package that house batteries. The package has a base 34 and first and second faces. A pocket is formed on the base. A transparent lid 36 is placed over the second face of the base and a card 14 is over the lid. Miller has a non-rotation features 76,78 to prevent rotation of the batteries.

However, Casanova does not disclose a cover or stacking of two or more packages. Douglas teaches a carrier-dispenser package for elongated objects or small round objects. The purpose of Douglas 's invention is to provide a compact package for a maximum number of articles to be held in a minimum amount of space. By selectively constructing the compartments onto separate sheets and then coupling the sheets forming a single layer of commodities, less bulk space is needed. Douglas shows in Figures 1,5 and 6, the various methods of providing staggered compartment in overlap form. In figure 1, the module 60 overlaps the module 50. Each module has a base layer 51,61 and a lid layer 52,62. For Figure 6, the module 80 overlies the module 90. Each module has a base layer 81,91 and a lid layer 82,92. The modules are separate units and can be secured by spring, hinge, band wraps, rubber band, etc. The modules can be secured together within a cover 10 or a cover 70. The cover comes in a variety of forms such as over wrap or shrinkwrap. The modules hence do not permit removal thereof while within the cover. Kallgren also teaches a blister pack with a plurality of compartments formed by a base and a cover. The blister packs are separated at element 9 and are considered as two modules. The modules overlap one another. In view of the teachings, it would have been

obvious to an artisan at the time the invention was created to utilize this application to store more articles in a compact and secured manner.

5. Claims 2,12 and 32 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claims 1 and 22, respectively, in paragraph 4, further in view of Official Notice.

With respect to claim 2, more than two modules are conventionally stored within a container or cover for shipment purposes. It would have been obvious to one of ordinary skill in the art to store at least two modules in a package to reduce transportation costs.

With respect to claims 12 and 32, it would have been obvious to provide any desired number of pockets such as 5 for each module. In addition, applicant has not pointed to the specific effect of having only four or five pockets that would render the combination ineffective.

6. Claims 1,3-5,10-11,13-14,19,20,22-25,30,31,33-34,39,40 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Kumakura et al (US D479,126) in view of Douglas (US 3,743,084) and/or Kallgren (US 6,253,920). Kumakura et al. discloses a display package that house batteries. The package has a base with first and second faces. As obvious and evident from the drawing, the base is the layer with protruding pocket. The side with the pocket is considered the first face and the side facing the lid in Figure 5 is the second face. At least one pocket is formed on the base.

Kumakura et al. does not disclose a cover or stacking of two or more packages. However, Douglas teaches a carrier-dispenser package for elongated objects or small round objects. The purpose of Douglas's invention is to provide a compact package for a maximum number of articles to be held in a minimum amount of space. By selectively constructing the

Art Unit: 3728

compartments onto separate sheets and then coupling the sheets forming a single layer of commodities, less bulk space is needed. Douglas shows in Figures 1,5 and 6, the various methods of providing staggered compartment in overlap form. In figure 1, the module 60 overlaps the module 50. Each module has a base layer 51,61 and a lid layer 52,62. For Figure 6, the module 80 overlies the module 90. Each module has a base layer 81,91 and a lid layer 82,92. The modules can be secured together within a cover 10 or a cover 70. The cover comes in a variety of forms such as over wrap or shrinkwrap. The modules hence do not permit removal thereof while within the cover. separate modules are easily separable upon removal of the cover. Kallgren also teaches a blister pack with a plurality of compartments formed by a base and a cover. The blister packs are separated at element 9 and are considered as two modules. The modules overlap one another. In view of the teachings, it would have been obvious to an artisan at the time the invention was created to stagger or overlap the modules to store more articles in a compact and secured manner. It would also have been obvious to provide the cover to secure the modules together.

Applicant's assertion that the examiner has not identified any lid or perforations is in error. The previous Office Action stated that the lid is covered over the second face of the base. This is also shown in Figure 5 of the drawing. With regard to the assertion that the perforations are not shown in Kumakura et al., applicant is requested to see Figures 2 and 5 wherein the perforations are on both the base and the lid and inbetween the pockets.

Applicant also stated that Kumakura et al. does not disclose only 4 pockets. As shown in the drawing, there are only 4 pockets in the figures. Applicant's various assertions that the

Art Unit: 3728

examiner has not shown or indicated the claimed feature in the applied reference appears to be applicant's preference to ignore what is shown in the drawing.

7. Claims 2 and 12,32 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claims 1 and 22, respectively, in paragraph 6, further in view of Official Notice.

With respect to claim 2, more than two modules are conventionally stored within a container or cover for shipment purposes. It would have been obvious to one of ordinary skill in the art to store at least three modules in a package to reduce transportation costs.

With respect to claims 12 and 32, it would have been obvious to provide any desired number of pockets such as 5 for each module. Inasmuch as that is conventionally known, it is also a design choice. In addition, applicant has not pointed to the specific effect of having only four or five pockets that would render the combination ineffective.

8. Claims 6-9 and 26-29 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claims 1 and 22, respectively, further in view of Casanova (WO 01/98170 A2). Casanova discloses a display package that house batteries. The package has a base 34 and first and second faces. A pocket is formed on the base. A transparent lid 36 is placed over the second face of the base and a card 14 is over the lid. Miller has a non-rotation features 76,78 to prevent rotation of the batteries. It would have been obvious in view of Casanova to provide non-rotational feature to prevent movement of the batteries. It would also have been obvious to provide a card over the lid to strengthen the compartments and to provide advertising information.

Applicant argues that he is not clear how a cardboard layer would strengthen the battery

modules. Applicant seems to be uninformed of the fact that a cardboard adding onto another package or layer would generally thicken the overall package. The thicker the combined layers, the stronger the package. It would take extra strength to tear the package with the cardboard layer and therefore protects the package from inadvertent opening. In addition, the additional layer has been added to the package for advertisement purpose to attract consumers.

All other arguments have been considered but are found unpersuasive and moot in view of the new rejection.

9. Claims 21 and 41 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Miller (WO 01/98171) in view of Kallgren (US 6,253,920) and Getz et al. (US 5,957,358) and Douglas. Miller discloses a display package that house batteries. The package has a base and first and second faces. A pocket is formed on the base. A lid is placed over the second face of the base and a card 14 is over the lid.

However, Miller does not disclose a cover or stacking of two or more packages. Getz et al. discloses a plurality of battery packages within a cover or container. Each four or five batteries are considered a module. As shown in Figure 6, the battery in one of the modules is situated between the space of two batteries in another module. This is to maximize the volume of the container. The two separate modules are easily separable upon removal of the cover. Kallgren also teaches a blister pack with a plurality of compartments formed by a base and a cover. The blister packs are separated at 9 and are considered as two modules. The modules overlap one another.

Douglas teaches a carrier-dispenser package for elongated objects or small round objects. The purpose of Douglas 's invention is to provide a compact package for a maximum number of

articles to be held in a minimum amount of space. By selectively constructing the compartments onto separate sheets and then coupling the sheets forming a single layer of commodities, less bulk space is needed. Douglas shows in Figures 1,5 and 6, the various methods of providing staggered compartment in overlap form. In figure 1, the module 60 overlaps the module 50. Each module has a base layer 51,61 and a lid layer 52,62. For Figure 6, the module 80 overlies the module 90. Each module has a base layer 81,91 and a lid layer 82,92. The modules are separate units and can be secured by spring, hinge, band wraps, rubber band, etc. The modules can be secured together within a cover 10 or a cover 70. The cover comes in a variety of forms such as over wrap or shrinkwrap. The modules hence do not permit removal thereof while within the cover. In view of the teachings of the secondary references, it would have been obvious to an artisan at the time the invention was created to utilize this application to store more articles in a compact and secured manner.

10. Claims 21 and 41 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Kumakura et al (US D479,126) in view of Kallgren (US 6,253,920) and Getz et al. (US 5,957,358) and Douglas. Kumakura et al. discloses a display package that house batteries. The package has a base and first and second faces. At least one pocket is formed on the base. A lid is placed over the second face of the base. Kumakura et al. does not disclose a cover or stacking of two or more packages. However, Getz et al. discloses a plurality of battery packages within a cover or container. Each four or five batteries are considered a module. As shown in Figure 6, the battery in one of the modules is situated between the space of two batteries in another module. This is to maximize the volume of the container. The two separate modules are easily separable upon removal of the cover. Kallgren also teaches a blister pack with a plurality of

Art Unit: 3728

compartments formed by a base and a cover. The blister packs are separated at 9 and is considered as two modules. The modules overlap one another. It would have been obvious in view of Kallgren and Getz et al. to overlap the compartments to maximize the volume within the cover

Douglas teaches a carrier-dispenser package for elongated objects or small round objects. The purpose of Douglas 's invention is to provide a compact package for a maximum number of articles to be held in a minimum amount of space. By selectively constructing the compartments onto separate sheets and then coupling the sheets forming a single layer of commodities, less bulk space is needed. Douglas shows in Figures 1,5 and 6, the various methods of providing staggered compartment in overlap form. In figure 1, the module 60 overlaps the module 50. Each module has a base layer 51,61 and a lid layer 52,62. For Figure 6, the module 80 overlies the module 90. Each module has a base layer 81,91 and a lid layer 82,92. The modules are separate units and can be secured by spring, hinge, band wraps, rubber band, etc. The modules can be secured together within a cover 10 or a cover 70. The cover comes in a variety of forms such as over wrap or shrinkwrap. The modules hence do not permit removal thereof while within the cover. In view of the teachings of the secondary references, it would have been obvious to an artisan at the time the invention was created to utilize this application to store more articles in a compact and secured manner.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners, M.P.E.P. 203.08.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Erica Miller at (571) 272-4370.


For applicant's convenience, the official FAX number is 571-273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which

Art Unit: 3728

require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Luong of Art Unit 3728 at the top of your cover sheet of any correspondence submitted.

Inquiries concerning the merits of the examination should be directed to Shian Luong whose telephone number is (571) 272-4557. The examiner can normally be reached on M-H from 7:00am to 4:00pm EST. The examiner's supervisor Mickey Yu can be reached at (571) 272-4562 for urgent matters.

STL
December 14, 2006


Primary Examiner
Shian Luong
Art Unit 3728